UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

M.B., a minor, by and through her guardian ad litem Brett Brashears,

Plaintiff,

v.

COUNTY OF BUTTE, et al.,

Defendants.

No. 2:23-cv-1977-DAD-SCR

ORDER GRANTING PLAINTIFF'S MOTION TO COMPEL

Before the Court is Plaintiff M.B's motion to compel further responses from Defendant Deputy Michael Keating to Interrogatory Numbers 1-2 from Set One of Plaintiff's Interrogatories. ECF No. 46.[1] For the reasons set forth herein, the motion is granted.

Procedural History

The underlying Complaint, filed September 13, 2023, alleges that on March 28, 2014, Defendants Keating and Panuke, in their capacity as Butte County Sheriff's Deputies, entered the home of Brett and Katrina Brashears without a warrant. ECF No. 1 at ¶¶ 25, 32. They then seized and detained M.B., the Brashears' eight-year-old daughter, even though she was not "in any immediate danger of suffering severe bodily injury or death in the short time it would have

[1] Although the original motion also sought to compel further responses to Interrogatory No. 4, supplementary responses have since resolved this dispute. ECF No. 47 at 3.

taken to obtain a warrant." *Id.* at ¶¶ 34-36. The Complaint alleges that the deputies did not have any "specific or articulable facts to [reasonably] suggest" otherwise or explore "less intrusive alternative means of ameliorating any perceived threat" to child safety. *Id.* at ¶¶ 36-37. Based in pertinent part on these facts, the Complaint alleges violations of constitutional rights under the First, Fourth, and Fourteenth Amendments. *Id.* at ¶¶ 64-68.

Interrogatory Numbers 1-2 ask Defendant Keating to "[i]dentify the efforts you made to eliminate the need to remove Plaintiff M.B. from" her parents' custody. ECF No. 47 at 4-5. Defendant Keating objected that these interrogatories were vague, both as to time frame and the definition of "efforts." *Id.* Subject to these objections, he responded that he performed the March 2014 welfare check, where he concluded that Plaintiff's "physical environment posed an immediate threat to Plaintiff's health or safety" due to various broken or damaged fixtures around the house. *Id.* at 4-6. This included exposed electrical wiring along the ceilings and walls, broken glass, exposed nail tips, lack of utilities, miscellaneous items scattered around the home, open sewage, an exposed burner connected to a propane tank, and a large knife on a small table next to the couch where Plaintiff was sleeping. *Id.*

On March 11, 2025, Plaintiff filed the instant motion. ECF No. 46. Plaintiff and Defendant Keating filed a joint statement on April 3, 2025. ECF No. 47. The Court heard the motion via Zoom on April 17, 2025. *See* ECF Nos. 48-49.

Analysis

If a party's response to discovery is evasive or incomplete, the propounding party may move for an order compelling such response. Fed. R. Civ. P. 37(a)(1), (4). Plaintiff argues that Defendant has not responded to the interrogatories because instead of addressing how he sought to "eliminate" the need to remove Plaintiff from her home, he lists the reasons he believed she was in immediate harm. ECF No. 47 at 8. He noted the knife on the table near her sleeping body, for example, but did not say whether he asked her parents to move it before taking her. *Id.*

Defendant Keating argues that his "straightforward" responses explain that he performed a welfare check based on Child Protective Services' ("CPS") various concerns, including that Plaintiff's parents had purportedly punished Plaintiff for speaking to CPS by making her sleep

outside. *Id.* The responses further list the conditions observed during the welfare check that, pursuant to California Welfare and Institutions Code sections 300 and 305, made him believe Plaintiff was in imminent danger of serious bodily injury. *Id.* at 9-10. In other words, "the effort made to eliminate the need to lawfully detain Plaintiff was the welfare check." *Id.* at 10. Defendant then asserts that Plaintiff's argument does not reflect the same question as the interrogatories, and that he answered the actual question by describing his welfare check. ECF No. 47 at 10-11.

The Court finds that Defendant's argument, rather than Plaintiff's, impermissibly reframes the interrogatories. The scope of discovery includes "any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case[.]" Fed. R. Civ. P. 26(b)(1). As Plaintiff notes, courts should interpret this broadly and only find that discovery exceeds this scope when "the information sought has no conceivable bearing on the case." *Soto v. City of Concord*, 162 F.R.D. 603, 610 (N.D. Cal. 1995). The relevance of the interrogatories at issue, however, highlights the difference between the question Plaintiff asked in discovery and the one Defendant answered.

Peace officers' removal of a child from parental custody without a warrant is permissible only "if the information they possess at the time of the seizure is such as provides reasonable cause to believe that the child is in imminent danger of serious bodily injury and that the scope of the intrusion is reasonably necessary to avert that specific injury." *Wallis v. Spencer*, 202 F.3d 1126, 1138 (9th Cir. 1999). When officers decided in *Wallis*, for example, to take a child into custody to prevent his father from sacrificing him to Satan on the 1991 Fall Equinox, relevant questions included whether "the emergency continued to exist for more than the brief day or two" after such equinox and whether he needed to be separated from his mother as well. *Id.* at 1140-41.

Defendant Keating's responses to the interrogatories at issue explain *why* he believed M.B. was in imminent danger of bodily injury. *See* ECF No. 47 at 10. This fully addresses only the first of the two aspects of the Fourth Amendment inquiry identified in *Wallis*. By asking *how* Defendant Keating sought "to *eliminate* the need to remove M.B. from" her home, the

interrogatories target the second aspect, whether any response short of seizure and removal would have sufficed. ECF No. 47 at 4-5 (emphasis added). If, for example, Defendants Keating and Panuke did not take any action between identifying hazardous conditions and taking M.B. away from her parents, Defendant Keating's answer must explicitly say as much.

Defendant Keating's discovery responses, while relevant to the case, do not address the equally relevant matter raised in Interrogatory Numbers 1-2. The Court grants the motion to compel further responses to address that gap.

Conclusion

IT IS HEREBY ORDERED:

The Court GRANTS the motion to compel Defendant Keating to further respond to Interrogatory Numbers 1-2 in accordance with this order. Within twenty-one (21) days of this order, Defendant Keating is ordered to propound amended responses explaining what efforts (i.e., what steps), if any, he took to alleviate the conditions he identified on March 28, 2014, as posing an imminent danger to M.B., before deciding to seize and detain her instead.

SO ORDERED.

DATED: April 18, 2025

SEAN C. RIORDAN
UNITED STATES MAGISTRATE JUDGE